

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHELLE LUNA,

Plaintiff

v.

JENNY ROBERTS,
Assistant United States Attorney,

Defendants

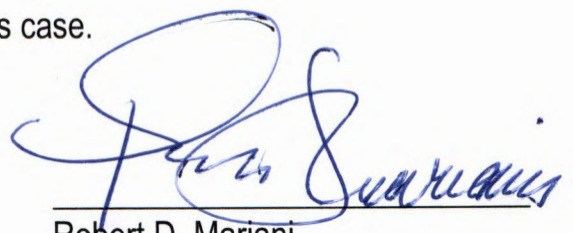
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3:24-CV-8
(JUDGE MARIANI)

ORDER

AND NOW, THIS 8th DAY OF FEBRUARY, 2024, upon *de novo* review of Magistrate Judge Joseph Saporito's Report & Recommendation ("R&R") (Doc. 4), Plaintiff's Objection thereto (Doc. 5), and all other relevant documents, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 4) is **ADOPTED AS MODIFIED**.¹
2. The above-captioned action is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.²
3. The Clerk of Court is directed to **CLOSE** this case.



Robert D. Mariani
United States District Judge

¹ The R&R states that "any actual injury to the plaintiff is contingent upon a decision by Rodriguez to withdraw his guilty plea, which he has not done". (Doc. 4, at 3). The Court notes that Rodriguez, Plaintiff's son, moved to withdraw his guilty plea on January 5, 2024, and this Court granted that motion the same day. (See 3:22-cr-23-RDM, Docs. 44, 45). Nonetheless, this fact does not alter the legal reasoning set forth in the R&R or the accuracy of Judge Saporito's recommendation that this action be dismissed.

² For the reasons set forth in the R&R, had the Court determined it has subject matter jurisdiction in this case, it would nonetheless dismiss this case for failure to state a claim upon which relief can be granted.